

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FILED
AUG - 3 2007
CLERK, U.S. DISTRICT COURT
By _____ Deputy

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In accordance with 28 U.S.C. § 636(b)(1) and Rule 72 of the Federal Rules of Civil Procedure, the court makes a de novo determination of those portions of the proposed findings or recommendations to which specific objection is made. United States v. Raddatz, 447 U.S. 667 (1980). The court need not consider any nonspecific objections or any frivolous or

conclusory objections. Battle v. United States Parole Comm'n, 834 F.2d 419, 421 (5th Cir. 1987).

Watts filed his federal petition for writ of habeas corpus in this court on April 23, 2007. The magistrate judge found that the applicable statute of limitations ran on Watts' petition on April 24, 1997, and thus his petition should be dismissed as time-barred. Watts appears to object to this finding in stating that the statute of limitations should be tolled and his petition found timely as he asserts a claim of actual innocence of a crime in the petition. Watt's argument is misplaced. The Fifth Circuit has established that claims of actual innocence of a crime, without more, do not constitute the type of "rare and exceptional" circumstance in which the statute of limitations for filing a habeas petition will be tolled. See Felder v. Johnson, 204 F.3d 168, 171 (5th Cir. 2000). Accordingly, Watts' federal petition is untimely and should be dismissed as time-barred.

Therefore,

The court accepts the findings, conclusions and recommendation of the magistrate judge and ORDERS that the petition in this action be, and is hereby, dismissed with prejudice as time-barred.

SIGNED August 3, 2007.



JOHN MCBRYDE
United States District Judge